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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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Office of Administrative Law Judges

Mail Code A-110

July 24, 1986

OFFICE OF  
THE ADMINISTRATOR

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Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region IX  
215 Fremont Street  
San Francisco, California 94105

Subject: General Dynamics Corp.,  
Docket No. TSCA-09-86-0036

Dear Counselors: \_\_\_\_\_

As you are aware, the undersigned has been designated to preside at the subject proceeding under Section 16(a) of the Toxic Substances Control Act (15 U.S.C. 2615(a)).

Section 22.18(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits (40 CFR 22.18(a)) sets forth Agency policy concerning settlements and the parties may be negotiating in an attempt to reach a settlement. Counsel for Complainant is directed to file a statement on or before August 29, 1986, as to whether this matter has been or will be settled. If the matter is not settled by that date I propose to accomplish some of the purposes of a prehearing conference by this letter as authorized by Section 22.19(e) of the Rules.

Accordingly, it is directed that the following prehearing exchange take place: \_\_\_\_\_

By Complainant and Respondent

1. Desired or required location for the hearing (see Rules 22.19(d) and 22.21(d)).
- ✓ 2. Furnish the names of expected witnesses and copies of any documents or exhibits proposed to be offered at the hearing to the extent not covered by specific requests below.

By Complainant

1. Provide copies of any reports of inspections of the premises referred to in the complaint.
2. Furnish summary of evidence supporting allegations in Counts I, II, III and IV of the complaint relative to Respondent's failure to conduct quarterly inspections of in-service transformers and to maintain records thereof as required by 40 CFR 761.30, to prepare annual documents on the disposition of PCBs in-use and stored for disposal as required by § 761.180 and to mark the storage for disposal areas with the M<sub>L</sub> label illustrated in § 761.45.
- ③ 3. Comment on Respondent's contentions that the PCB transformers referred to in the complaint were owned by and under the control and supervision of the Air Force and that no annual document for the storage facility for 1984 and prior years was required, because the storage facility was not in existence in those years.
4. Furnish summary of evidence supporting allegations in Counts V, VI, VII, VIII and IX of complaint relative to Respondent's failure to store PCB items in compliance with § 761.65(b) and to inspect said items for leaks at least once every 30 days and that on or about November 15, 1985, five in-service transformers (Serial Nos. 3011134, 3011135, 3011136, C856753 and 6937301) were leaking.
5. Furnish summary of evidence supporting allegations in Counts X, XIII, XIV, XV and XVI of the complaint to the effect that on or about November 15, 1985, five additional transformers (Serial Nos. 6417574, C503430, C583472, 1408448 and 6579308) were leaking.
6. Furnish summary of evidence supporting allegations in Counts XII and XIII of complaint to the effect that on or about November 15, 1985, areas of Buildings 1 and 3 therein described were contaminated with PCBs.
7. Provide copies of civil penalty calculation worksheets.

By Respondent

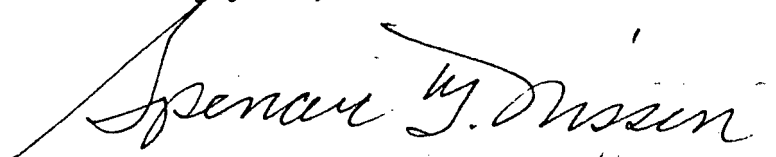
1. Furnish documents or other evidence to support allegations in Paragraph 1 of answer to the effect that Respondent has requested authorization and funding to remove PCB transformers and that the transformers were inspected by the Air Force resulting in determination the transformers did not require removal or other action on an emergency basis.

2. Provide copies of records of inspections of transformers and summary of any other evidence to support contention PCB transformers were inspected on a quarterly basis.
3. Furnish summary of evidence supporting allegation that Respondent maintained records containing substance of information required by § 761.180.
4. Provide details to support assertion PCB storage facility referred to in Count three of answer was not in existence in 1984.
5. Furnish summary of evidence supporting assertion articles referred to in Counts IV and V were not PCB items and that these articles were marked in accordance with § 761.40 and as required by the Air Force.
6. Furnish summary of evidence supporting assertions in Count V of answer to the effect that alleged holes in concrete were anchor bolt sockets and that the EPA inspector directed that no repairs be made without further direction from EPA.
7. Furnish summary of evidence to support assertion in Paragraph VI of answer to the effect transformers referred to in Count VI had been converted to non-PCB.
8. Furnish summary of evidence to support allegations in Count XI to the effect stain had been removed in April 1984 by a licensed contractor and that the stain tested slightly over 50 ppm PCB.
9. Furnish summary of evidence leaks referred to in Counts XIV, XV and XVI of answer were not presented at time of inspection less than 30 days previously.

Responses to this letter will be furnished to the Regional Hearing Clerk, to the other party and to the undersigned on or before September 26, 1986.

Upon receipt and review of the responses, a determination will be made as to whether further correspondence would serve any useful purpose or whether this matter should be set for hearing without further delay.

Sincerely yours,

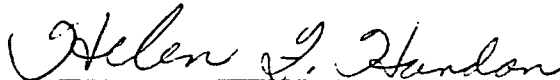


Spencer T. Nissen  
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that the original of this letter, dated July 24, 1986, in re: General Dynamics Corp., was mailed to the Regional Hearing Clerk, Reg. IX, and a copy was mailed to each addressee.

July 24, 1986

  
Helen F. Handon  
Secretary